

AMENDMENTS TO THE DRAWINGS

The attached sheets of drawings include changes to FIGS. 1-5. These sheets replace the original sheets including FIGS. 1-5.

Attachment: Replacement Sheets

REMARKS

Reconsideration and allowance in view of the foregoing amendments and the following remarks are respectfully requested.

Upon entry of this Amendment, claims 1-31, and 33-41 will be pending in the present application. Claims 36-41 have been newly added.

The examiner objected to the drawings because each of the figures was missing the reference characters. The new sheets include the missing reference characters. These reference numbers were included in the drawings submitted in U.S. Patent Application No. 60/402,336 filed August 9, 2002 ("the '336 application"). The present application claims priority from the '336 application. As such, no new matter has been entered. Accordingly, applicant respectfully requests that the amendments to the figures be approved.

The examiner's notice that claims 7-9, 18-20, and 30-32 would be allowable if rewritten in independent form is appreciated. The applicant has added new claims 36-41 directed to this allowable subject matter. Claim 36 includes the limitations of claims 1, 2, and 7. Claim 37 includes the limitations of claim 8. Claim 38 includes the limitations of claims 12, 13, and 18. Claim 39 includes the limitations of claim 19. Claim 40 includes the limitations of claims 24, 25, and 30. Claim 41 includes the limitations of claim 31.

Claims 1, 10, 11, 12, 21, 22, 23, 24, 33, 34, and 35 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,662,101 to Ogden ("the '101 patent"). Claims 1-6, 10-17, and 21-29 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,805,117 to Ho ("the '117 patent"). Claims 1-6, 10-17, and 21-29 stand rejected under 35 U.S.C. § 102(b) as being anticipated by the '101 patent. Applicant respectfully traverses these rejections for the reasons presented below.

The '101 patent discloses a contemporary headgear assembly. As best appreciated with reference to FIG. 3, the disclosed headgear includes a skull cap with five straps: a top strap 17, a pair of upper side straps 15, and a pair of lower side straps 13. The straps interconnect the skull cap to the mask in order to support the mask on the face of the user and minimize the

potential for the headgear to laterally shift on the head of the user. In contrast, the present invention only requires three straps to provide the stability provided by the headgear disclosed in the '101 patent which uses five straps. As can be readily appreciated by one of ordinary skill in the art, adjusting three straps rather than five straps is easier for users of these devices. This advantage is achieved by the unique contoured panels of the present invention which obviate the need for the two additional straps used in the device disclosed in the '101 patent. The contoured panels fit about the user's head to provide lateral stability. Further, the contoured panels have an upper edge and a lower edge. The length of the upper edge is shorter than the length of the lower edge of each contoured panel. The '101 patent does not disclose contoured panels and certainly does not disclose that the contoured panels have a upper edge with a length that is shorter than the length of the lower edge.

With respect to the '117 patent, the headgear includes a cap or headpiece 12 formed from multiple panels. The panels are sewn together to form a shape that conforms to the anticipated user's head. Once again, the disclosed headgear includes five straps: an upper connecting strap 56, upper connecting straps 32, and lower connecting straps 42. As noted above, the present invention requires only three straps to secure the mask and provide lateral stability rather than five straps. The device disclosed in the '117 patent shows a pair of side panels which have an upper edge, sewn to the central panel, and a lower edge. The lower concave edge of these designs has a length that is necessarily shorter than the length of the upper convex edge. If anything, the '117 patent teaches away from the present invention in which the lower edge has a length that is longer than the length of the upper edge.

In the embodiments recited in independent claims 1, 12, and 24, each claim recites that the headgear includes a headpiece having contoured panels. The contoured panels include panels which have an upper edge with a length and a lower edge with a length. The length of the upper edge is shorter than the length of the lower edge. As noted above, this configuration is neither disclosed nor suggested in the references cited by the examiner. Neither reference discloses the unique contoured panels of the present invention or the particular configuration of the contoured panels.

For the reasons presented above, applicant respectfully submits that independent claims 1, 12, and 24 are not anticipated or rendered obvious by the cited references. Therefore, claims dependent claims 2-11, 13-23, and 25-35 are also not anticipated or rendered obvious due to their dependency from independent claims 1, 12, and 24. Applicant respectfully requests that the above rejection of claims 1-35 be withdrawn. Furthermore, new claims 36-41 are deemed allowable since they are directed to subject matter previously deemed allowable by the examiner.

This response is being filed within one month after the three-month statutory response period which expired on November 9, 2005. A request for an one month extension is submitted with this response. In addition, additional claim fees are believed to be required as a result of the above amendments to the claims. The Commission is authorized to charge the additional claim fees as well as any other fee required under 37 C.F.R. §§ 1.16 or 1.17 to deposit account no. 50-0558. Two copies of a Fee Transmittal form are submitted for this purpose.

All objections and rejections have been addressed. It is respectfully submitted that the present application is in condition for allowance and a Notice to the effect is earnestly solicited.

Respectfully submitted,

By 
Timothy A. Nathan
Reg. No.: 44,256
Tel. No.: (724) 387-4435
Fax No.: (724) 387-5021

RESPIRONICS, INC.
1010 Murry Ridge Lane
Murrysville, PA 15668-8525

Attached: Amended FIGS. 1-5.